

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

VIRGILLIO VIRGO,

Plaintiff,

-against-

RAHEEM SABAZZ, *et al.*,

Defendants.

21-CV-5172 (LTS)

ORDER OF DISMISSAL
UNDER 28 U.S.C. § 1651

LAURA TAYLOR SWAIN, Chief United States District Judge:

By order dated September 21, 2018, the Court barred Plaintiff from filing any new action *in forma pauperis* (IFP) without first obtaining from the Court leave to file. *See Virgo v. Wright*, ECF 1:17-CV-10006, 6 (S.D.N.Y. Sept. 21, 2018). Plaintiff files this new *pro se* case and seeks IFP status, but has not sought leave from the Court to file this action.¹ This action is therefore dismissed without prejudice because Plaintiff failed to comply with the September 21, 2018 order.

The Clerk of Court is directed mail a copy of this order to Plaintiff and note service on the docket.

¹ Plaintiff did not file an IFP application, however, the Court construed Plaintiff's submission as if he had.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: June 14, 2021
New York, New York

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
Chief United States District Judge